

REPORT - PLANNING COMMISSION MEETING

June 9, 2005

Project Name and Number: Sandhu Residence (PLN2005-00058)

Applicant: Dr. Sukhwinder Sandhu

Proposal: To consider findings and conditions of approval, prepared as directed by the Planning Commission on April 28, 2005, for a Conditional Use Permit and Preliminary Grading Plan to allow the development and use of a 16,214 square foot single-family residence.

**Recommended Action
as Directed by
Planning Commission:**

Delete Mitigations #8 and #9 and amend Mitigation #5 from the approved Mitigated Negative Declaration and Mitigation Monitoring Program based upon findings that the project is in conformance with the provisions of the Hill Area Initiative of 2002 (Measure T), consistent with the General Plan; and,

Approve Conditional Use Permit and Preliminary Grading Plan subject to findings and conditions as contained in Exhibit "D" and Exhibit "E", respectively.

Location: East King Avenue, Niles Planning Area

Assessor Parcel Number(s): 507-0124-027-02 and 507-0124-028-00

Area: 81 Acres or 3,528,360 square feet

Owner: Dr. Sukhwinder Sandhu

Agent of Applicant: Paul Kozachenko, Gonsalves & Kozachenko

Consultant(s): Bruno Marcelic, Architect, Bruno Marcelic Architect
Velimir Sulic, Mason-Sulic Civil & Design Consultants, Inc.
David W. Buckley, Geotechnical Engineer, Buckley Engineering Associates
Gerald W. Sasse, Environmental Assessor, Aqua Science Engineers, Inc.
Bob Petit, Photogrammetry, Aero-Geodetic Corporation
Daniel Stephens, Environmental/Biological Consultant, H.T. Harvey & Associates
Dr. R. Rexford Upp, Geotechnical Engineer, Upp Geotechnology, Inc.

Environmental Review: A Mitigated Negative Declaration has been prepared for this project.

Existing General Plan: Hill Face Open Space

Existing Zoning: O-S (R), [Hill Face] Open Space (Development Reserve Overlay)

Existing Land Use: Undeveloped

Public Hearing Notice: A total of 12 courtesy notices were mailed to public members who have interest in the proposed project and/or addressed the Planning Commission at the April 28, 2005 meeting.

Executive Summary: The action for consideration is the adoption of findings and conditions of approval for the Conditional Use Permit and Preliminary Grading Plan to allow the construction and use of a new 16,214 square foot residence, including a garage, an indoor pool area and related facilities on an 81-acre unimproved parcel within the Hill Area on East King Avenue at the applicant's proposed Location 1 shown on Exhibit "A" (enclosed). Following the public

hearing on April 28, 2005, the Planning Commission deliberated, indicated intent to approve the project and directed staff to formulate findings and conditions of approval based on the information and testimony presented at the hearing.

This report focuses on the findings and conditions of approval for the project, which the Planning Commission directed staff to prepare. Since the last meeting, the applicant has also requested a modification to the project to relocate the home on the "saddle area", in the proximity of Location 1A. Staff has modified the proposed conditions to reflect this change. A complete discussion on the project background and previous actions were included in the April 2005 report (enclosed—Informational 1).

Per the applicant's request, the Planning Commission continued the consideration of the findings and conditions for this project to this meeting.

April 28, 2005 Planning Commission Meeting: On April 28, 2005, the Planning Commission indicated intent to approve the project (5-1-0-0-1) and directed staff to formulate findings and conditions of approval for consideration at its next regularly scheduled meeting, while also advising that conditions to mitigate nighttime lighting and to reduce the structure's visual impact by the incorporating appropriate landscaping consisting of large plant material (e.g. minimum 24-inch box trees) were to be included as part of the project conditions. Based on that direction, findings and conditions of approval are proposed for adoption. Because the Planning Commission found the project consistent with the Hill Area Initiative of 2002 (Measure T) provisions, findings to delete two mitigation measures (Mitigation #8 and #9) contained in the Mitigated Negative Declaration and Mitigation Monitoring Program are also included, as well as amendment to Mitigation #5 to delete reference to an alternative location

Project Findings and Conditions of Approval: Pursuant to the Planning Commission's direction, project findings and conditions of approval for the Conditional Use Permit (CUP) and Preliminary Grading Plan (PGP) are included for consideration and adoption. Pursuant to Section 8-22509 [Action on application by planning commission.] and 8-4109 [Function of reviewing agency.], the Planning Commission is empowered to approve the CUP and PGP, respectively, when it finds that the proposed project meets specific findings set forth in said Sections, as well as other general findings (i.e., General Plan and Measure T conformity). The proposed findings for consideration are included in Exhibit "D" (CUP) and Exhibit "E" (PGP). Development and grading conditions that are typically applied to single-family residential projects in the Hill Area, including the two conditions related to landscaping and lighting suggested by the Planning Commission in April 2005, are also proposed for consideration.

It should be noted that additional grading on a slope of thirty percent (30%) or more might be required to meet the Fire Department's requirements for the access road to the proposed residence. The access road generally must have an unobstructed width of not less than twenty feet (20'). (California Fire Code section 902.2.2.1—Dimensions.) Portions of the existing access road proposed for the project appear to be less than 20 feet in width, and thus may require additional grading to improve the access road to meet this requirement. To date, staff has not received the additional information required by the Fire Department from the applicant regarding the design details of the access road to review for conformity with the Fire Department's requirements. Thus, the Planning Commission's finding (b), that the route of access to the project does not violate Measure T's Section (c) (see Exhibit "D") may result in a future conflict with the Fire Department's access road requirements (see Condition A-13 of Exhibit "D") if grading or enlargement of the access road is subsequently required.

ENCLOSURES:

- Exhibit "A" (Site Plan, Preliminary Grading Plan, Floor Plan, Architectural Elevation and Sections)
- Exhibit "B" (Opportunities and Constraints Analysis)
- Exhibit "C" (Color and Material Board)
- Exhibit "D" (Conditional Use Permit Findings and Conditions of Approval)
- Exhibit "E" (Preliminary Grading Plan Findings and Conditions of Approval)
- Initial Study, Draft Mitigated Negative Declaration, Mitigation Monitoring Program

Informational 1 (April 2005 Staff Report)

EXHIBITS:

Exhibit "A" (Site Plan, Preliminary Grading Plan, Floor Plan, Architectural Elevation and Sections)
Exhibit "B" (Opportunities and Constraints Analysis)
Exhibit "C" (Color and Material Board)
Exhibit "D" (Conditional Use Permit Findings and Conditions of Approval)
Exhibit "E" (Preliminary Grading Plan Findings and Conditions of Approval)
Initial Study, Draft Mitigated Negative Declaration, Mitigation Monitoring Program

Recommended Actions based on Commission Direction:

1. Hold public hearing regarding findings and conditions of approval.
2. Delete Mitigations #8 and #9 and amend Mitigation #5 from the approved Mitigated Negative Declaration and Mitigation Monitoring Program because the project is in conformance with the provisions of Measure T, consistent with the General Plan.
3. Approve project subject to findings and conditions of approval for the Conditional Use Permit and Preliminary Grading Plan as contained in Exhibit "D" and Exhibit "E", respectively.

**Site Map of 81-acre Project Parcel
(Site Zoning: O-S (R); Site General Plan: Hill Face Open Space)**

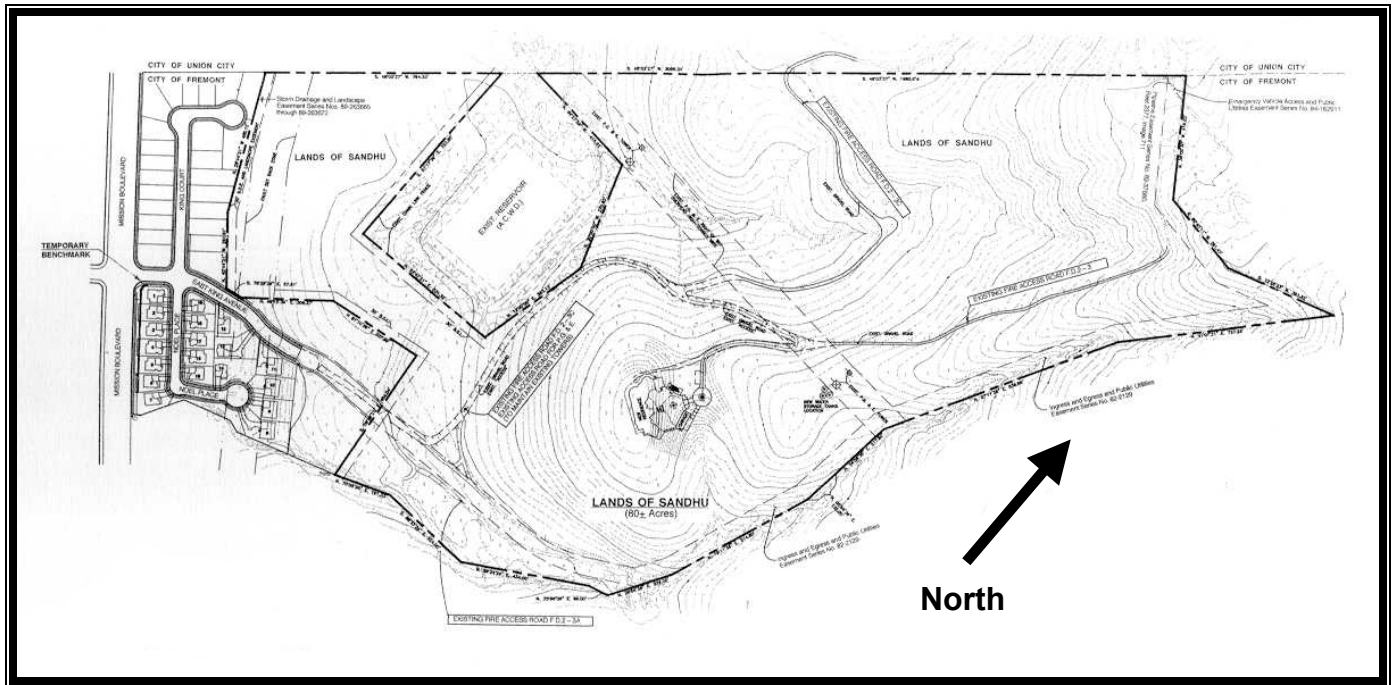


EXHIBIT "D"
Sukhwinder Sandhu Residence
East King Avenue (APN 507-0124-027-00 and 507-0124-028-00)
Conditional Use Permit
PLN2005-00058

Findings:

The findings below are made on the basis of information presented to the Planning Commission and testimony at the hearings on April 28, 2005 and June 9, 2005, incorporated herein:

- a) Based on the evaluation of alternative building sites on the 81-acre project parcel, the proposed project at Location 1 of Exhibit "A" is in the spirit and consistent with the purpose of Measure T in that the proposed residence would not result in harmful or unnecessary development and would not have an impact on natural resources, on watersheds and water quality, on wildlife habitat, on beauty and tranquility, and on scenic hill views. As conditioned, with the incorporation of appropriate, native landscaping consisting of larger plant material (e.g., minimum 24-inch box Coast Live Oak) and the mitigation of nighttime lighting, the overall visual impact from public places should be further reduced.
- b) The project as proposed does not violate the relevant provisions of Hill Initiative of 2002, Measure T. Development of the proposed route of access and project at Location 1 does not violate the "Steep Slopes" (§8(c)) or "Hilltop" (§8(d)) provisions because the definition of "hilltops" is not defined by Ordinance, Location 1 is not situated on a "hilltop", and the project would not result in an increase in visual impacts from public places.
- c) The applicant has fulfilled the City Council's July 2004 general direction regarding the preparation of constraints analysis, site-specific geologic or other information, and has modified the building location and design as part of considering alternative building sites and analysis.
- d) The site is suitable and adequate for the proposed project in that it is not located in a riparian setback area and meets the minimum lot area requirement of 20 acres for the development of one single-family residence on a parcel of eighty-one (81) acres in size. The proposed aggregate floor area of all floors in buildings proposed for the project does not exceed 16,214 square feet. Based on Measure T, the minimum lot size requirement for a development consisting of an aggregate floor area of 16,214 square feet would be 37.22 acres. The applicant's lot size (81 acres) meets this requirement, as well as the maximum aggregate floor area restriction of 20,000 square feet.
- e) The proposed project would not have a substantial adverse effect on traffic circulation, the planned capacity of the street system or other public facilities or services because points of ingress-egress are properly located, sufficient parking is provided, and adequate fire fighting equipment access and facilities are available. Based on the ITE Trip Generation Rate Manual, 7th Edition, the average single-family home will generate 10 trips per weekday. The project would have no significant impact on East King Avenue and Mission Boulevard because it typically would amount to one additional trip during the AM Peak time from 7 a.m. to 9 a.m. and one additional trip during the PM peak time from 4 p.m. to 6 p.m.
- f) The proposed project would not have a substantial adverse economic effect on nearby uses because the design and appearance of the project complies with the provisions of Measure T, reducing its visual impact from public places to the extent practicable, in keeping with the natural scenic beauty of the Hill Area. The applicant has submitted a visual analysis and photo simulations, which demonstrates that the proposed residence's visual impact from public places, such as Mission Boulevard, Niles Boulevard Overpass, Quarry Lakes and the Alameda Creek Trail, has been minimized by building siting, landscaping, and the use of appropriate building materials and colors.
- g) The proposed project would not have a substantial adverse impact on the general welfare of persons residing in the community because the proposed project will be required to adhere to all zoning standards and General Plan,

as well as state and local building and fire codes. The applicant will be required to install fire prevention devices and incorporate fire prevention measures within and around the proposed residence provide fire protection.

- h) The proposed project is compatible with existing and proposed development within its surroundings because, as mentioned above, the proposed use of one single-family residence designed to minimize visual impacts from public places is permitted on the lot. Through conditions of approval, the applicant will be required to work with staff on additional enhancements to the proposed residence and site improvements to further reduce the visual impact from public places.
- i) The proposed project is consistent with the General Plan and Measure T because the construction and use of the project, a new single-family residence, is conditionally permitted in the Hill Face Open Space District. The project is appropriately designed to comply with applicable hill area development provisions, as conditioned.

Conditions of Approval:

Prior to building permit issuance

- A-1. The applicant shall work with staff to relocate the proposed home into the "saddle area" of the site, east of the originally proposed site, so as to minimize grading and follow the natural topography. The relocated home shall not project into the visual plane of the westerly landform as viewed from the Quarry Lakes entry gate house area. In other respects, the relocated home shall generally conform to the presented plans as they related to architectural design style, massing, elevation, colors and materials and all the conditions of approval set forth herein in Exhibit "D" (Findings and Conditions of Approval).
- A-2. The applicant shall submit appropriate plans to the Development Organization for review to ensure compliance with all City codes and policies. Any changes or modifications by these Conditions of Approval shall be incorporated into the project through the Development Organization process.
- A-3. The project shall be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, park facilities, park dedication in-lieu fee, capital facilities and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance.
- A-4. Windows, doors, visibility of address and the like shall conform to the Security Ordinance, No. 2007, as amended, subject to the review and approval of staff during the Development Organization review process.
- A-5. Consistent with the Hill Area standards and policies, minor revisions of the site plan, building location and architectural details may be permitted within the overall context of the approved design concept, subject to the approval of the Development and Environmental Services Director (DES Director) during the Development Organization review process.
- A-6. The project shall conform to the City's Hazardous Fire Area requirements as set forth in Chapter 16, Uniform Building Code, as amended.
- A-7. An approved automatic fire extinguisher system (AFES) shall be installed throughout the residence, subject to review and approval of staff during the Development Organization review process.
- A-8. All retaining walls shall be of constructed of appropriate reinforced material and designed to match the texture and color of the building or terrain. No retaining wall shall exceed three feet in height. Plans shall be revised to comply with this requirement.
- A-9. The exterior treatment of the residence shall be consistent with Exhibit "C". The use of contrasting colors and architectural elements inconsistent with the natural appearance of the Hill Area shall be prohibited.
- A-10. The skylights shall be redesigned such that the potential to create glare or reflections from public places can be minimized or eliminated.

- A-11. The applicant shall continue to work with staff during the Development Organization review process on any minor modification necessary to make the design of the residence further consistent with the Hill Area standards and policies.
- A-12. The applicant and project design team shall work with staff during the Final Grading Plan permit review process to revise the project to better conform to the Hill Area objectives. Cut and fill outside of the building envelopes should be limited to three feet, with four feet being the maximum cut and fill permitted in small areas.
- A-13. **Access Requirements:** The development of the project shall meet the Fremont Fire Department requirements related to access to the proposed building site. Based upon Section 902 of the California Fire Code (CFC), the following requirements shall be met:
- A fire apparatus access road shall be required for the proposed development. The dimensions of the fire apparatus access road shall have an unobstructed width of not less than twenty feet (20') and an unobstructed vertical clearance of not less than thirteen feet six inches (13'-6"). CFC 902.2.2.1—Dimensions
 - Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all weather driving surface. CFC 902.2.2.2—Surface
 - As proposed, a sixteen-foot (16') paved apparatus access roadway with two-foot (2') gravel shoulders on both sides of the paved apparatus access roadway, for a total unobstructed width of not less than twenty feet (20'), is acceptable provided that the following conditions are met:
 1. The applicant demonstrates the gravel shoulders can withstand the imposed load of Fire Department apparatus (56,000 pounds).
 2. The applicant demonstrates that the gravel shoulders will provide an all weather driving surface and the applicant demonstrates how the gravel shoulders will be maintained.
 - Should the applicant be unable to meet both conditions above (1 and 2), the fire apparatus access road shall be constructed with vehicle turnout areas provided at intervals of five hundred feet (500'). The turnouts are required to allow passenger and service vehicles to move out of the way of Fire Department vehicles responding to an emergency.
- A-14. Prior to issuance of a building permit or grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State.
- A-15. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- A-16. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water quality measures for operation and maintenance of the project.
- A-17. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
- A-18. The project plan shall include erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system during and after construction, in accordance with the practices outlined in the Association of Bay Area Governments Erosion and Sediment Control Handbook, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board's Erosion and Sediment Control

Field Manual. A separate plan shall be submitted for this purpose and shall be subject to review and approval of the City Engineer during the Development Organization process.

- A-19. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures contained within the project Storm Water Pollution Prevention Plan (SWPPP) and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- A-20. The applicant shall propose and plant additional trees found typically in the Niles Hill Area setting (e.g., Coast Live Oak) to further screen the proposed structure, thereby reducing the visual impact from public places. The trees should also further soften the appearance of the proposed residence and make it fit better in with the natural hill area. For example, Coast Live Oaks could be planted on the south, west and east side of the residence. To ensure advance growth of the trees, the trees shall be no less than 24-inch box in size. All other landscaping shall consist of fire resistive, native or native appearing plant material. The landscape plan shall be subject to the review and approval of Development Organization staff.
- A-21. Paved impervious surface areas in the courtyard shall be reduced to the extent feasible or, alternatively, converted to turf cell (in lieu of paving), consistent with the requirements of the Fire Department.
- A-22. The location of trash/recycling bins shall be appropriately located on the site and screened, subject to the review and approval of Development Organization staff.
- A-23. In accordance the Hill Initiative of 2002, an easement, conveyed to the City, shall be required for the parcel. Such easement shall bar any further development that would not be permitted under the Initiative. The easement is negative only; it shall convey no possessory interest to the City, nor confer any right to public access. At such time the parcel is restored to its original condition, such as removal of all structures and grading the parcel substantially back to its pre-development condition, the easement would be terminated.
- A-24. A minimum 30-foot wide wetband shall be installed around the residence to serve as fire protection, subject to the review and approval of the Fire Department, unless an alternative means to achieve fire protection is approved by the Fire Department. Care shall be taken to avoid creating a publicly visible green oasis on the Hill Face. Appropriate landscaping shall be utilized.
- A-25. Screening, through siting and appropriate landscaping, shall be applied to the water tanks and all other appurtenances incidental to the residential use.
- A-26. Annexation approval by Alameda's County Local Agency Formation Commission (LAFCO) shall be required for public utilities prior to the issuance of a building permit. Alternatively, the applicant may seek approval of by the Alameda County Health Department of a Septic System and water well from the Alameda County Water District.
- A-27. The project shall conform to the requirements of the Street Right-of-Way and Improvement Ordinance. The project shall comply with one of the following requirements:
 - a. The applicant shall dedicate right-of-way and install complete street improvements for the public streets East King Avenue, which abuts the project site. The right-of-way shall consist of extending and terminating East King Avenue as a public cul-de-sac with a minimum right-of-way radius of thirty-seven feet (37') and pavement radius of thirty-two feet (32'). Required street improvements include, but are not limited to, removal of the existing temporary cul-de-sac constructed with Tract 7083, installation of pavement, curb, gutter, sidewalk, landscape, irrigation, streetlights, storm drain facilities, driveways, and other utilities. All required improvements and right-of-way dedications are subject to review and approval of the City Engineer prior to issuance of the encroachment, building, or grading permit. Or,
 - b. The applicant shall obtain right-of-way and easements to convert the existing temporary East King Avenue cul-de-sac bulb into a permanent cul-de-sac bulb. The right-of-way and easements for the permanent cul-de-sac bulb shall be granted to the City of Fremont. The minimum street right-of-way shall be for a cul-de-sac bulb radius of thirty-seven feet (37') and pavement radius of thirty-two feet (32').

Required street improvements include, but are not limited to, removal of the existing temporary cul-de-sac constructed with Tract 7083, installation of pavement, curb, gutter, sidewalk, landscape, irrigation, streetlights, storm drain facilities, driveways, and other utilities.

In addition to the right-of-way and improvements, the applicant shall apply for and receive approval of a street abandonment for the excess East King Avenue public street right-of-way, which is not being improved. Also, the applicant shall apply for and receive approval of a private street application for a private street that extends from the permanent East King Avenue cul-de-sac bulb to the applicants property, in order for the applicants property to have the frontage and street access required of the Subdivision Ordinance and Zoning Ordinance.

All required improvements and right-of-way dedications are subject to review and approval of the City Engineer prior to issuance of the encroachment, building, or grading permit.

- A-28. The applicant shall apply for and receive approval of an encroachment permit prior to, or concurrently with, the building permit.
- A-29. All new utility services shall be installed underground, subject to review and approval of the City Engineer prior to issuance of the encroachment permit.
- A-30. The applicant shall dedicate a minimum six-foot (6') wide public service easement (P.S.E.) along the frontage of the East King Avenue cul-de-sac.
- A-31. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831. In particular, the project plans shall include measures to demonstrate compliance with permit section C.3.d, Numeric Sizing Criteria for Pollutant Removal Treatment Systems. The project civil engineer shall include stormwater treatment hydraulic calculations with the first plan submittal for building permits.
- A-32. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall run with the land.
- A-33. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
- A-34. All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
- A-35. All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City Engineer may require additional cleaning.

Mitigation Conditions (Prior and During Construction, as required):

Mitigation #1: *Development of the project site is subject to architectural and site plan review through the Conditional Use Permit Process by the City's Planning Commission, or the City Council on appeal, and City's Development Organization. The project shall be reviewed for conformity with Measure T as well as the policies, goals, and objectives of the General Plan and Council-adopted hill area policies and all other ordinances and regulations. In addition, the project will be reviewed to ensure that the design is compatible with the existing natural condition of the surrounding area, that it is in compliance with all the applicable Zoning codes and policies, and that it minimize the visual impact to the extent practicable from public places.*

The precise project design shall also include methods of screening night lighting and glare, where the lighting is located, designed and shielded so as to confine direct rays to the parcel where it is located. Such lighting must be designed so that light is not directed off the site and the light source is shielded from direct offsite viewing.

Mitigation #2: *To mitigate the identified air quality impacts of grading and construction, the following mitigation measures will be incorporated into the project:*

Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions;

Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage;

Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust;

Designate a person to oversee the implementation of the dust control program; and,

During construction, streets adjacent to the project site that are used by construction vehicles shall be swept periodically to reduce dust.

Implementation of the above-stated mitigation measures will reduce the identified air quality impacts to a non-significant level.

Mitigation #3: *A site investigation is required to be completed, before the issuance of a grading permit, by a qualified wildlife biologist to determine the presence of burrowing owls or any endangered, threatened or rare wildlife habitat. An additional investigation would be required thirty days prior to the commencement of any site grading or clean-up.*

Mitigation #4: *Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5. (e) and (f) will be followed to reduce impacts to a non-significant level.*

Mitigation #5 (amended): *The project shall incorporate the geotechnical recommendations (the "mitigation measures") contained in the Geotechnical report (pages 6-12) prepared by Buckley Engineering Associates dated August 6, 2003, except that, where a certain recommended mitigation measure exceeds the limitation of, or is inconsistent with, the requirements of the Fremont Municipal Code (FMC), particularly relating to Hill Area grading limitations, such mitigation measure will be modified to conform to the FMC and Measure T, based on the recommendations of the Project Geotechnical Engineer and approval by the City Engineer.*

In addition, the proposed project is subject to the provisions of the Seismic Hazard Mapping Act, which requires a site-specific seismic hazard investigation to be completed by the applicant, peer reviewed by a City-selected geotechnical professional, and filed with the State Geologist prior to the issuance of a building permit.

Mitigation #6: *Best Management Practices elements shall be incorporated into the site design to mitigate storm water, drainage, and water quality impacts for the project site.*

The project plan shall include erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system and natural watercourses during and after construction. A separate plan shall be submitted for this purpose and shall be subject to review and approval of the City Engineer during the Development Organization process. Project construction will be required to adhere to appropriate standards for the construction of a single-family residence, emphasizing storm water Best Management Practices intended to achieve compliance with the goals of the Alameda County Urban Storm Water Runoff Program in conformance with the Federal National Pollutant Discharge Elimination System (NPDES) program established by the Clean Water Act.

[Mitigation #7 Eliminated]

Mitigation #8: Noise generated during construction activity is considered a short-term impact. To minimize the impacts, construction activities shall be limited to the following hours of operation:

7 a.m. to 7 p.m. Monday through Friday
9 a.m. to 6 p.m. Saturday

No Construction Activities on Sunday

[Mitigation #9 Eliminated]

Mitigation #10: The applicant shall install all necessary utility appurtenances in compliance with local, state and federal building and fire code requirements required for a single-family residence. If above-ground utility structures or devices are proposed, particularly the three 10,000-gallon water tanks, they shall be designed and located insofar that visibility from public places is minimized to the extent practicable (e.g., landscaping utilized for screening).

Prior to forming and framing:

- C-1 The applicant or designated representative shall request a field inspection by the Planning Division to ensure that the finished pad and floor elevations are consistent with this approval.
- C-2 The project architect/ engineer shall submit a letter to the City certifying that the finished pad and floor elevations are consistent with the approved plans, subject to the review and approval of the Planning Director.

During Construction:

- D-1 Prior to installation of the faux stone treated walls, the applicant or the applicant's representative, shall request an inspection of the residence by the project planner in order to ensure compliance with all of the architectural detailing of the building as specified in the approved drawings.
- D-2 The property owner shall be responsible for litter control and sweeping of all paved surfaces. All on-site storm drains shall be cleaned immediately before the start of the rainy season beginning on October 15 each year, subject to the review of the Building/ Public Works Inspector.

Prior to release of building for occupancy:

- E-1 The Project Architect and Landscape Architect (or designer) shall submit a letter to the City certifying the building and its associated landscaping have been constructed in conformance with the approved architectural plan and landscape plans, subject to the review and approval of the Development Organization.

NOTE TO APPLICANT: The project site is located in an area identified as having the potential for earthquake-induced landslides by the State Geologist, on the preliminary State of California Seismic Hazard Zones, Niles Quadrangle map. The permitting and development of the project site shall conform to the requirements of the Seismic Hazard Mapping Act, local ordinances, and policies. Preparation of a site-specific geotechnical investigation to identify the hazard and formulate mitigation measures may be required prior to issuance of any building or grading permit.

Exhibit "E"
Findings and Conditions of Approval for PLN2005-00058
Sandhu Residence – Preliminary Grading Plan
East King Avenue (APN 507-0124-027-00 and 507-0124-028-00)

The findings below are made on the basis of information presented at the public hearing to the Planning Commission on April 28, 2005, incorporated herein by reference:

- (a) The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
- (b) The proposed project described in the application will not result in geologic or topographic instability on or near the building site.
- (c) The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant is required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
- (d) Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished. Supplemental data and substantiation of conclusions may be required by the City Engineer upon city review of the reports.
- (e) The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

- 1. The project shall conform to Sheet 3 of Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Conditional Use Permit PLN2005-00058.
- 2. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- 3. Approval of this preliminary grading plan shall terminate 24 months from the date of approval by the Planning Commission.
- 4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). The grading permit shall be subject to the approval of the City Engineer.
- 5. The 1,434 cubic yards of fill proposed for placement southeast of the existing A.C.W.D. reservoir may be permitted if the project geotechnical engineer demonstrates that the existing land area is stable and that the proposed fill can be placed in a stable manner, subject to review and approval of the City Engineer prior to issuance of the grading permit.
- 6. The on site storm drainage system is not approved with the Preliminary Grading Plan (PLN2005-00058). The applicant shall provide for a functional drainage system subject to City approval during Development Organization review.
- 7. During Development Organization review the applicant shall obtain a final grading permit in conjunction with the building permit. A professional engineer registered in the State of California must prepare the final grading plan.

8. The applicant shall submit a detailed geotechnical report, prepared by a qualified geotechnical engineer registered by the State of California. The geotechnical report, at a minimum, shall include:
 - a. Recommendations regarding the drainage design along the roadway;
 - b. Recommended pavement structural sections, including the public street extension, the private street, and the private driveway;
 - c. Recommendations regarding the stability of existing cut slopes in sandstone bedrock;
 - d. Recommendations regarding the existing roadway cut slopes in excess of three horizontal to one vertical; and
 - e. Recommendations for retaining walls along the roadway and around the residence.
9. The project geotechnical engineer shall review the grading plans for conformance with the project geotechnical report and approve the grading plans prior to issuance of the grading permit.
10. Grading operations shall be in accordance with recommendations contained in the required geotechnical report and shall be supervised by an engineer registered in the State of California to do such work.
11. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
12. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
13. The applicant may be allowed grading deviation up to a maximum of two feet (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over two feet may be referred to the Planning Commission subject to approval of the City Engineer.
14. The final grading plan for the access driveway may be referred to the Planning Commission if the City Engineer finds that the final grading plan includes grading that was not identified or quantified on the Preliminary Grading Plan, and such grading does not conform to the Fremont Municipal Code, General Plan, and/or Development Policy for the Hill Area. The referral would be in the form of an amendment to the approved Preliminary Grading Plan.
15. In the event that the relocated home or grading does not conform to the hillside grading standards set forth in the Fremont Municipal Code and/or the Development Policy for the Hill Area (e.g. maximum height of retaining walls not part of a building is 3 feet, exterior grading using slopes no greater than 3 horizontal to 1 vertical, etc.), the City Engineer may refer the plan to the Planning Commission for consideration if the applicant does not modify the proposal to conform with these standards.
16. All cut and fill slopes shall be graded to a maximum slope of three horizontal to one vertical (3:1).
17. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State.